

## PCT

REC'D 25 AUG 2004

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT PCT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference IEC020027PCT	<b>FOR FURTHER ACTION</b> See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/CN02/00246	International filing date (day/month/year) 09.Apr. 2002 (09.04.02)	Priority date (day/month/year)
International Patent Classification (IPC) or national classification and IPC IPC(7): A61K35/78, A61P29/00		
<p><b>Applicant</b> SICHUAN INSTITUTE OF CHINESE MATERIA MEDICA et al.</p> <p>1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 4 sheets, including this cover sheet.</p> <p><input type="checkbox"/> This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and /or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority ( see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).</p> <p>These annexes consist of a total of _____ sheets.</p> <p>3. This report contains indications relating to the following items:</p> <p>I <input checked="" type="checkbox"/> Basis of the report</p> <p>II <input type="checkbox"/> priority</p> <p>III <input type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p>IV <input type="checkbox"/> Lack of unity of invention</p> <p>V <input checked="" type="checkbox"/> Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p>VI <input checked="" type="checkbox"/> Certain documents cited</p> <p>VII <input type="checkbox"/> Certain defects in the international application</p> <p>VIII <input type="checkbox"/> Certain observations on the international application.</p>		

Date of submission of the demand 14.AUG2003(14.08.03)	Date of completion of this report 05.AUG2004(05.08.04)
Name and mailing address of the IPEA/CN 6 Xitucheng Rd., Jimen Bridge, Haidian District, 100088 Beijing, China Facsimile No. 86-10-62019451	<p>Authorized officer YUE Xuelian</p> <p>Telephone No.86-010-62095266</p> 

## I. Basis of the report

## 1. With regard to the elements of the international application:

 the international application as originally filed the description:

pages \_\_\_\_\_, as originally filed

pages \_\_\_\_\_, filed with the demand

pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_

 the claims:

Nos \_\_\_\_\_, as originally filed

Nos \_\_\_\_\_, as amended (together with any statement) under Article 19

Nos \_\_\_\_\_, filed with the demand

Nos \_\_\_\_\_, filed with the letter of \_\_\_\_\_

 the drawings:

sheets/fig \_\_\_\_\_, as originally filed

sheets/fig \_\_\_\_\_, filed with the demand

sheets/fig \_\_\_\_\_, filed with the letter of \_\_\_\_\_

 the sequence listing part of the description:

pages \_\_\_\_\_, as originally filed

pages \_\_\_\_\_, filed with the demand

pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_

## 2. with regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language \_\_\_\_\_ which is:

 the language of a translation furnished for the purposes of international search (under Rule 23.1(b)). the language of publication of the international application (under Rule 48.3(b)). the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

## 3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

 contained in the international application in written form. filed together with the international application in computer readable form. furnished subsequently to this Authority in written form. furnished subsequently to this Authority in computer readable form. The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished. The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.4.  The amendments have resulted in the cancellation of: the description, pages \_\_\_\_\_ the claims No. \_\_\_\_\_ the drawings, sheets/fig \_\_\_\_\_5.  This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).\*\*

\* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17).

\*\* Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.  
PCT/CN02/00246

## V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

## 1. Statement:

Novelty (N) Claims 1-10 YES

Claims \_\_\_\_\_ NO

Inventive step (IS) Claims 1-10 YES

Claims \_\_\_\_\_ NO

Industrial applicability (IA) Claims 1-10 YES

Claims \_\_\_\_\_ NO

## 2. Citations and explanations (Rule 70.7)

D1: CN1178697A

D2: CN1142970A

D3: ZHANG Cun, "A Treatment of Rheumatic with Tripterygium Hypoglaucum" published in HUNAN Magazine of Traditional Chinese Medicine, 1988,4(4), p15-16,abstract

No document had disclosed projects claimed in claim 1-10 of the present application. Therefore, the subject-matters of claims 1-10 possess novelty. (Article 33(2) PCT)

Compared with the documents D1、D2、D3, the compositions disclosed in claims 1-4 are not apparent. They have prominent substantive features and represent a notable progress. So claims 1-4 possess inventiveness. Accordingly, the preparation method of these compositions and their usage disclosed in claims 5-10 possess inventiveness. (Article 33(3) PCT)

The subject-matters of claims 1-10 can be industrially produced or applied, and can produce positive results. Therefore, they are all industrially applicable. (Article 33(4) PCT)

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/CN02/00246

## VI. Certain documents cited

## 1. Certain published documents (Rule 70.10)

Application No. Patent No.	Publication date (day/month/year)	Filing date (day/month/year)	Priority date (valid claim) (day/month/year)
CN1178697A	15.Apr.1998(15.04.98)	28.Aug.1997(28.08.97)	
CN1142970A	19.Feb.1997(19.02.97)	26.Jun.1996(26.06.96)	

Name of Magazine	Publication date	Author and Title
HUNAN Magazine of Traditional Chinese Medicine	1988,4(4), p15-16 abstract	ZHANG Cun Treatment of Rheumatic with Tripterygium Hypoglaucum

## 2. Non-written disclosures (Rule 70.9)

Kind of non-written disclosure	Date of non-written disclosure (day/month/year)	Date of written disclosure referring to non-written disclosure (day/month/year)

## 第 VIII (iv) 栏 声明: 发明人资格声明 (仅为了指定美国的目的)

声明必须与规程 214 条的标准语句一致; 参见对于 VIII、VIII (i) 到 (v) (概述) 和专门对于 VIII (iv) 的说明。如果不使用本栏, 则请求书中不应包括该页。

发明人资格声明 (4.17(iv) 和 51 之二.1(a)(iv))  
(仅为了指定美国的目的)

我在此声明我相信我是要求保护和寻求专利的主题的原始、最初和唯一的(如果只列出了一个发明人)或者共同的(如果列出了不只一个发明人)发明人。

本声明是关于本国际申请的, 它是其一个组成部分(如果本声明与国际申请一起提出)。

本声明是关于 PCT/\_\_\_\_\_ 号国际申请的(如果本声明根据细则 26 之三提出)。

我在此声明我的居所, 邮寄地址, 和国籍和列在我名字下面的一样。

我在此声明我已检查过并理解上述国际申请的内容, 包括所述申请的权利要求书。在所述申请的请求书中, 我按照 PCT 细则 4.10 写明了对外国优先权的任何要求, 并且在下面的“在先申请”栏目下, 通过申请号, 国家或世界贸易组织成员, 申请的日、月、年, 我写明了向美国以外的国家提出的, 其申请日早于所要求的外国优先权申请的申请日的任何专利申请或者发明人证书申请, 包括指定至少一个除美国以外的国家的任何 PCT 国际申请。

在先申请: 2000.10.9. No. 00129548.9

我在此承认自己有义务公开我知道的, 根据美国联邦法规 (CFR) 第 37 篇第 1.56 条对确定专利性有实质意义的信息, 包括对于部分继续申请, 在该在先申请的申请日和该部分继续申请的 PCT 国际申请日之间可得到的实质性信息。

我在此声明所有根据我自己的知识所作的声明是真实的, 并且所有根据信息和相信所作的声明相信是真实的; 而且在作这些声明时我知道根据美国法典第 18 篇第 1001 条故意作假声明以及有关类似行为将受到罚款或监禁或二者并罚的惩罚, 并且这样的故意假声明将危害申请或根据该申请授予的任何专利的有效性。

姓名: 邓文龙 国籍: 中国

居所: 四川省成都市人民南路四段 11 号

邮寄地址: 四川省成都市人民南路四段 11 号

发明人签字: 邓文龙 日期: 2002.4.8

姓名: \_\_\_\_\_ 国籍: 中国

居所: \_\_\_\_\_

邮寄地址: \_\_\_\_\_

发明人签字: \_\_\_\_\_ 日期: \_\_\_\_\_

姓名: \_\_\_\_\_ 国籍: 中国

居所: \_\_\_\_\_

邮寄地址: \_\_\_\_\_

发明人签字: \_\_\_\_\_ 日期: \_\_\_\_\_

姓名: \_\_\_\_\_ 国籍: 中国

居所: \_\_\_\_\_

邮寄地址: \_\_\_\_\_

发明人签字: \_\_\_\_\_ 日期: \_\_\_\_\_

本声明在续第 VIII (iv) 栏中有续页。

Rec'd PCT/PTO 07 OCT 2004  
Rec'd WIPO 01 AUG 2004

专利合作条约

PCT

国际初步审查报告  
(PCT 条约 36 和细则 70)

REC'D 25 AUG 2004

WIPO PCT

申请人或代理人的档案号 IEC020027PCT	关于后续行为 参见“传送国际初步审查报告的通知”(PCT/IPEA/416 表)	
国际申请号 PCT/CN02/00246	国际申请日(日/月/年) 09.4 月 2002 (09.04.02)	优先权日(日/月/年)
国际专利分类(IPC)或者国家分类和 IPC 两种分类 IPC(7): A61K35/78, A61P29/00		
申请人 四川省中药研究所		

1. 本国际初步审查单位已作出国际初步审查报告并依照条约第 36 条将其传送给申请人。

2. 本报告共计 4 页, 包括扉页。  
 本报告还有附件, 即修改后的并且作为本报告基础的说明书修改页、权利要求书修改页和/或附图修改页, 和/或对本国际初步审查单位所作出的更正页(见 PCT 细则 70.16 和行政规程 607)。

这些附件共计 \_\_\_\_ 页

3. 本报告包括关于下列各项的内容:

I  报告的基础  
II  优先权  
III  不作出关于新颖性、创造性和工业实用性的意见  
IV  缺乏发明的单一性  
V  按条约 35(2)关于新颖性、创造性和工业实用性的推断性意见; 支持这种意见的引证和解释  
VI  引用的某些文件  
VII  国际申请中的某些缺陷  
VIII  对国际申请的某些意见

提交要求书的日期 14.8 月 2003 (14.08.03)	完成本报告的日期 05.8 月 2004 (05.08.04)
国际初步审查单位名称和地址 IPEA/CN 中国北京市海淀区西土城路 6 号(100088) 传真号: 86-10-62019451	受权官员 岳雪莲 电话号码: 86-010-62095266

## I. 报告的基础

## 1. 关于国际申请中各个部分: \*

 原始提交的国际申请。 说明书, 第 \_\_\_\_\_ 页, 原始提交的,  
第 \_\_\_\_\_ 页, 要求书提交的,  
第 \_\_\_\_\_ 页, \_\_\_\_\_ 的信件提交的。 权利要求, 第 \_\_\_\_\_ 项, 原始提交的,  
第 \_\_\_\_\_ 项, 条约第 19 条修改的(附有说明),  
第 \_\_\_\_\_ 项, 要求书提交的。 附图, 第 \_\_\_\_\_ 页, 原始提交的。  
第 \_\_\_\_\_ 页, 随要求书提交的,  
第 \_\_\_\_\_ 页, \_\_\_\_\_ 的信件提交的。 说明书中的序列表部分  
第 \_\_\_\_\_ 页, 原始要求提交的,  
第 \_\_\_\_\_ 页, 随要求书提交的,  
第 \_\_\_\_\_ 页, \_\_\_\_\_ 的信件提交的。

## 2. 关于所使用的语言, 除本项下另有说明外, 本国际初步审查单位所获得的或者已向本国际初步审查单位提交的上述所有部分, 所使用的语言均为提交本国际申请时所使用的语言。

本国际初步审查单位所获得的或向本国际初步审查单位提交的这些部分所使用的语言是 \_\_\_\_\_,  
这种语言是 \_\_\_\_\_ 为了国际检索而提交的译本所使用的语言(细则 23.1 (b))。 本国际申请公布时所使用的语言(细则 48.3 (b))。 为了国际初步审查而提交的译本所使用的语言(细则 55.2 和/或 55.3)。

## 3. 关于本国际申请中所公开的任何核苷酸和/或氨基酸的序列, 本国际初步审查是根据下面的序列表进行的:

 国际申请中所包含的书写形式的序列表。 与国际申请同时提交的计算机可读形式的序列表。 后来以书写形式向本国际初步审查单位提交的序列表。 后来以计算机可读的形式向本国际初步审查单位提交的序列表。 已提交了关于后来提交的书写形式的序列表没有超出原始提交的国际申请所公开的范围的说明。 已提交了关于以计算机可读的形式记载的信息是与书写形式的序列表相同的说明。

## 4. 修改删除了以下内容:

 说明书, 第 \_\_\_\_\_ 页 权利要求, 第 \_\_\_\_\_ 项 附图, 第 \_\_\_\_\_ 页, 图 \_\_\_\_\_5.  由于(某些)修改被认为超出了原始公开的范围, 如补充栏所示, 因此本报告是按照如同没有修改的情况作出的(细则 70.2(c))。 \*\*

\* 按照条约第 14 条答复通知时向受理局提交的替换页, 在本报告中被称为“原始提交的”, 这些替换页不作为本报告的附件, 因为它们没有包含修改(细则 70.16 和 70.17)。

\*\* 任何包含这种修改的替换页, 都必须在第 1 项中指明, 并作为本报告的附件。

## 国际初步审查报告

国际申请号

PCT/CN02/00246

## V. 按条约 35 条(2)关于新颖性、创造性或工业实用性的推断性意见；支持这种意见的引证和解释

## 1. 意见

新颖性(N)

权利要求 1-10

是

权利要求

否

创造性(IS)

权利要求 1-10

是

权利要求

否

工业实用性(IA)

权利要求 1-10

是

权利要求

否

## 2. 引证和解释 (细则 70.7)

D1: CN1178697A

D2: CN1142970A

D3: 张存, “粉背雷公藤治疗风湿性关节炎”, 《湖南中医杂志》1988, 4 (4): 15—16, 摘要

国际检索报告所引用的文献中并未公开权利要求 1—10 所述的技术方案, 根据 PCT 条约 33(2), 认为本权利要求 2—5 的主题具有新颖性。

相对于对比文件 D1、D2、D3 而言, 权利要求 1—4 所述的组合物具有非显而易见性, 所以权利要求 1—4 具备创造性。相应地权利要求 5—7 所述的组合物的制备方法, 及权利要求 8—10 所述的组合物的用途也具有非显而易见性, 符合 PCT 条约 33(3)规定的创造性。

权利要求 1—10 的技术方案可以在产业上实施, 具有积极效果, 所以符合 PCT 条约 33(4)的规定, 具有工业实用性。

## 国际初步审查报告

国际申请号

PCT/CN02/00246

## VI. 某些引用文件

## 1. 某些已公布的文件(细则 70.10)

申请号 专利号	公布日 (日/月/年)	申请日 (日/月/年)	优先权日(有效的) (日/月/年)
CN1178697A	15.4 月.1998(15.04.98)	28.8 月.1997(28.08.97)	
CN1142970A	19.2 月.1997(19.02.97)	26.6 月.1996(26.06.96)	

期刊名称                    公布日                    文章作者、题目  
《湖南中医杂志》            1988, 4 (4):15-16            张存,  
                                  文摘                    “粉背雷公藤治疗风湿性关节

## 2. 非书面公开(细则 70.9)

非书面公开的种类	非书面公开的日期 (日/月/年)	述及非书面公开的 书面公开的日期 (日/月/年)

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